

1 been asked to keep the station's public inspection
2 file up to date?

3 A Well, I certainly had never told him that
4 I was -- I had never made the statement to him that I
5 was, that I was doing that. So I don't know why he --
6 I don't know what knowledge -- he didn't -- he must
7 have known either from me or he must have known from
8 Jeff Ramirez.

9 Q Okay, but what you're saying now is that
10 you didn't tell Ernie that, you didn't tell Ernie that
11 you had been asked to maintain the public inspection
12 file?

13 A I never had a conversation with Ernie
14 saying that I was responsible for the public
15 inspection file.

16 Q Now, the last part of that statement,
17 where you -- well, the sentence reads, "Ernie knew I
18 had not been asked to do so and had not done so." How
19 did Mr. Sanchez know that in fact you had not kept the
20 station's public inspection file up to date?

21 A I really can't say how Ernie knew other
22 than out of conversations with Jeff Ramirez or myself.

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1 Jeff Ramirez, at the time of preparing documents for
2 the petition to deny, was certainly the, the -- as the
3 point, point man at the station regarding preparing
4 the documents with our attorneys.

5 Q Well, had you told Mr. Sanchez that you
6 hadn't kept the public inspection file up to date?

7 A At this time I really don't have a
8 recollection of a conversation -- specifically
9 discussing the public inspection file with Ernie
10 Sanchez.

11 Q Well, I mean, the statement in your
12 testimony, though, is pretty definitive about what
13 Ernie knew.

14 A Yes.

15 Q You didn't tell him, though.

16 JUDGE SIPPEL: Which testimony are you
17 referring to?

18 MR. SHOOK: The testimony that appears in
19 SFUSD Exhibit T-2 page 9.

20 THE WITNESS: I can't be absolutely clear
21 at this time how Ernie knew that other than I had no
22 reason to think he, he believed that I -- I had no

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1 reason to believe that he ever interacted with me as
2 if I was responsible for the public information file.
3 And as I said, I'm sorry, that it seems that in my
4 declaration there in paragraph 4 that it actually --
5 that actually is made a bit clearer.

6 BY MR. SHOOK

7 Q No, I was -- my focus was on your direct
8 testimony. We've explored that.

9 A Yes.

10 Q I would like to then go to the paragraph
11 4 of your declaration in January '98 that you've
12 mentioned a number of times now. It states, "I am
13 aware of and have assisted with an ongoing affirmative
14 effort since the arrival of Jeffrey Ramirez as general
15 manager of KALW to update and maintain the station's
16 public inspection file in accordance with the rules of
17 the Federal Communications Commission." Did you draft
18 that language?

19 A That language was drafted by our
20 attorneys.

21 JUDGE SIPPEL: Now, you've got a couple of
22 sets of attorneys --

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1 THE WITNESS: Oh, okay, no, the attorneys
2 at the time -- I'll say the attorneys of Sanchez Law
3 Firm.

4 MR. SHOOK: Do you know which one? Since
5 I think there are only two of them.

6 THE WITNESS: I don't have a recollection
7 of which attorney drafted that language.

8 BY MR. SHOOK:

9 Q Now, we have just gone over the bills from
10 the Sanchez Law Firm, and it appears that the only
11 person that you were speaking with was Susan Jenkins.
12 Is that so?

13 A By those documents, by those slip lists,
14 I think they call them, yes. That's what it appears
15 to be.

16 Q But you don't have any recollection one
17 way or the other.

18 A No, I don't have a recollection at this
19 point.

20 Q Now, in connection with the drafting of
21 your declaration, did you tell anyone that you were
22 aware of an ongoing affirmative effort since the

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1 arrival of Mr. Ramirez to update and maintain the
2 station's public inspection file in accordance with
3 the rules of the Federal Communications Commission?

4 A I don't recall if I mentioned that to them
5 or if they knew it from another source. Them being
6 the attorneys.

7 Q Okay. This question is slightly
8 different.

9 A Okay.

10 Q In connection with the drafting of your
11 declaration, did you tell anyone that you had assisted
12 with an ongoing affirmative effort since the arrival
13 of Jeffrey Ramirez as general manager of KALW to
14 update and maintain the station's public inspection
15 file in accordance with the rules of the Federal
16 Communications Commission?

17 A Again, at this time I can't recall if I
18 told anyone that or if our attorneys knew about it
19 from another source.

20 Q Now, besides yourself, was anyone else
21 involved in this -- besides yourself and the general
22 manager, excuse me -- was anybody else involved in

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1 this ongoing affirmative effort?

2 A I know I was aware of Jeff's involvement,
3 and I can't recall who else was -- who else he might
4 have -- whom else might have been aware of his effort.

5 Q Can you describe the ongoing affirmative
6 effort that you referred to in your declaration?

7 A Well, certainly, well, as I say there,
8 since the ongoing affirmative action that I assisted
9 Jeff with since he arrived, had arrived.

10 When Jeff first arrived at the station in
11 mid-1996, of course we were still at the old location
12 in the gym, and Jeff certainly was -- that certainly
13 took up a lot of time as regarding preparing the new
14 radio station, and that was probably the top item on
15 his agenda, I would suspect, outside of just, just
16 overseeing the radio station.

17 I certainly was very much aware of his,
18 much more aware of his actions regarding the public
19 file and being around the public file once he was
20 getting ready to, to prepare the documents and
21 whatever needed to be done regarding making the --
22 preparing the documents for the license renewal

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1 application.

2 And then after the -- and he also was
3 involved in the public file after -- certainly looking
4 at the public file after the challenge from GGPR. I
5 was aware of that as well. So --

6 Q As far as the --

7 A Go ahead.

8 Q I'm sorry, I cut you off.

9 A No, that's fine.

10 Q In your response you, you mentioned at
11 least three different time frames, the first being
12 when Mr. Ramirez arrived as general manager, and you
13 mentioned that his primary concern was the station
14 move that was going to take place within the next --
15 and in fact did take place within the next couple of
16 months.

17 But as I understood your answer, and you
18 can correct me if I'm wrong, Mr. Ramirez didn't start
19 to look at the public inspection file until he was
20 preparing the responses for the renewal application?

21 A Well, let me clear that up. But I --

22 JUDGE SIPPEL: Can you answer his

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1 question?

2 THE WITNESS: Oh, yes. What I was aware
3 of, certainly that I was much more aware of him being
4 around the public inspection file once the license,
5 license renewal documents needed to be prepared and he
6 was working on that.

7 I don't have a lot of recollection of him
8 being -- I wasn't that much aware of him being around
9 the public inspection file say in that time when we
10 were building the new radio station and preparing for
11 the move.

12 MR. SHOOK: Do you remember him being
13 involved in the public inspection file in any way
14 before he started to prepare responses for the
15 station's renewal application?

16 THE WITNESS: I don't have specific
17 recollection of what he was doing that much in the
18 early -- when he first arrived at the station.

19 BY MR. SHOOK:

20 Q Do you have any recollection at all of him
21 being involved with the public inspection file before
22 he started to prepare responses for the renewal

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1 application?

2 A I don't have a specific recollection of
3 him being -- opening up the public file and putting
4 something in it or taking something out or preparing
5 a document at that time.

6 I don't believe that he -- and it doesn't
7 appear that the public inspection file is a document
8 that he'd collect data and put into it or take things
9 out on a daily basis. So I don't have specific
10 recollection of that.

11 Q Then what assistance did you provide in
12 connection with this ongoing affirmative effort to
13 update and maintain the station's public inspection
14 file?

15 A If Jeff had come to me and asked me a
16 specific question about the public inspection file or
17 to retrieve a document or to see if a document had --
18 was in the file, or to make a copy of something and
19 give it to him, I would have done that.

20 I wouldn't have taken -- I didn't, at any
21 time, that I recall, have any -- take any initiative
22 myself regarding the public file. But I may have

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1 prepared documents for him or if he asked me a
2 specific question or asked me to do a specific task I
3 would have done that.

4 Q Do you have any recollection of doing so?

5 A In the time after -- perhaps before and
6 certainly after the license challenge was made from
7 GGPR, I believe I was asked to prepare some ownership
8 documents, that these apparently needed to be put in
9 the public file and sent to the FCC. And I would have
10 done that on Jeff's behalf if he had requested it.
11 And I believe he asked me to prepare those.

12 Q Do you remember Jeff asking you to do
13 anything relative to the public file before that?

14 A Outside of preparing ownership documents -
15 - no, outside of preparing ownership forms, I can't
16 recall anything specific that Jeff asked me about the
17 public file.

18 Q Well, in your declaration, at paragraph 4,
19 which we're now focusing on, did you mean to suggest
20 that the station's public inspection file was in fact
21 updated and maintained in accordance with the
22 Commission's rules?

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1 A Can I read it to myself one more time?

2 Q Certainly.

3 A Thank you.

4 JUDGE SIPPEL: Are you directing him to a
5 specific paragraph?

6 MR. SHOOK: We're focusing on paragraph 4,
7 Your Honor.

8 JUDGE SIPPEL: Can you read paragraph 4
9 yourself?

10 THE WITNESS: Yes, I can, thank you.
11 Okay, I'm sorry, the question again was did I -- was
12 I --

13 MR. SHOOK: Did you mean to suggest in
14 paragraph 4 that the station's public inspection file
15 was in fact updated and maintained in accordance with
16 the Commission's rules?

17 THE WITNESS: I agreed with that statement
18 in my declaration because I assumed that that's what
19 Jeff was doing. I didn't have an independent
20 knowledge of the public -- of the FCC rules. So I
21 just assumed that Jeff was doing it in accordance with
22 the FCC rules.

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1 BY MR. SHOOK:

2 Q Okay, I believe we went over yesterday
3 what the public inspection file rule at the time was,
4 and if I recall your testimony from yesterday, it was
5 to the effect that you hadn't read that rule at that
6 time. Is that accurate?

7 A That's what I said yesterday, yes, I
8 remember that.

9 Q You had not read the rule at or about the
10 time this declaration was prepared?

11 A At about this time that it was prepared I
12 don't recall reading the rule then, either.

13 Q You hadn't read it before?

14 A Before, I probably hadn't read it either.
15 Yes. No.

16 Q Did you mean to suggest that from the
17 beginning of Mr. Ramirez's tenure as general manager
18 the station had placed in the public inspection file
19 by the 10th day after the end of each three month
20 period an issues programs list that covered that three
21 month period?

22 A Since I, I was operating and had operated

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1 under the assumption that Jeff was taking care of the
2 public file, if that's what the rule required, I could
3 only have assumed that he knew the rule and, and did
4 that.

5 Q In your declaration, did you mean to
6 suggest that at the appropriate time during Mr.
7 Ramirez's tenure as general manager, the station had
8 placed a supplemental ownership report in the
9 station's public inspection file following the
10 November 1996 general election?

11 A Again, as I assumed that Jeff knew what
12 the rules were regarding public files and had seen to
13 it that that -- that he had followed out that rule.

14 JUDGE SIPPEL: Can I interrupt for just a
15 minute to ask this witness a question? Did -- I'm
16 going again, I'm looking again at this time sheet,
17 Sanchez Law Firm time sheet, at page 7, it says on
18 January 14 that Ms. Jenkins spent ten hours, ten
19 hours, for a total of -- costing you \$2,250.00. And
20 it has a whole list of things that she did,
21 conferences with witnesses, prepare declarations,
22 okay, for Ramirez, Palacios, Perez, Helgeson, that

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1 being you, right?

2 THE WITNESS: I'm Mr. Helgeson.

3 JUDGE SIPPEL: Okay. So you have all of
4 this legal work being done at that time in which you,
5 according to this document, were involved with. I
6 think you testified that you had conversations with
7 the firm on that date.

8 THE WITNESS: I, I, Your Honor, I remember
9 having conversations, I can't remember specifically
10 what date I had them.

11 JUDGE SIPPEL: Well, you have no reason to
12 think that this is not accurate, do you?

13 THE WITNESS: No, I don't, Your Honor.

14 JUDGE SIPPEL: I mean, she wrote down on
15 January 14, 1998 that she had all -- she was doing all
16 of this work.

17 THE WITNESS: Yes.

18 JUDGE SIPPEL: She's charging you
19 \$2,250.00.

20 THE WITNESS: Yes.

21 JUDGE SIPPEL: You said that you're pretty
22 careful about money. You seem to be giving that

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1 impression, that you're watching the money pretty
2 carefully. I don't think there's any reason to
3 suspect that this is not true.

4 Now, all I'm saying is that in the context
5 of the -- whatever day it was in your mind, okay --
6 did anybody give you any advice as to what -- in a
7 general rule, that a layman could understand, as to
8 what this requirement was of the FCC with respect to
9 the public inspection file?

10 THE WITNESS: Your Honor, I -- regarding
11 the work that the attorneys did on the petition to --
12 the response to -- that they were putting together,
13 Jeff Ramirez certainly was the, was the contact --

14 JUDGE SIPPEL: You know you're not
15 answering my question.

16 THE WITNESS: Okay. I, I recall having
17 conversations with them, but I don't recall -- it was
18 about a number of things, basically, as far as
19 documents in my public -- in my private files that I,
20 that I kept, and they were concentrating quite a bit
21 on that, as I recall, and were emails, were emails
22 looked at that were part of their -- that was part of

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1 GGPR's --

2 JUDGE SIPPEL: You know, you're not
3 answering my question.

4 THE WITNESS: I'm sorry.

5 JUDGE SIPPEL: Do you understand what I'm
6 trying to find out from you? Did somebody at this law
7 firm charging \$2,000.00 a day to represent you ever
8 tell you, and I'm not going to what they told you, but
9 didn't they tell you what it was that you were
10 supposed to have in the public inspection file, since
11 this is what this whole declaration is about and since
12 you under oath said in no uncertain terms update,
13 maintain the public inspection file in accordance with
14 the rules of the FCC.

15 Well, I'm paraphrasing, but that's
16 basically what you said. You said I swear to God, you
17 didn't say I swear to God, but you said that -- you
18 signed a declaration of penalty of perjury of the laws
19 of the United States of America that the foregoing is
20 true and correct, and amongst those things you're
21 saying that there was an ongoing effort to comply with
22 the FCC's rules on public inspection files and all I'm

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1 asking is a simple question. Did you know what the
2 heck that meant?

3 THE WITNESS: Well, I -- Your Honor, what
4 I -- I assisted Jeff -- I assumed that Jeff Ramirez
5 knew, since he was my supervisor.

6 JUDGE SIPPEL: Did you -- no, I'm asking
7 you did you know?

8 THE WITNESS: I didn't know, Your Honor.

9 JUDGE SIPPEL: You didn't have a clue.

10 THE WITNESS: I never -- no, I did not
11 have a clue. I only knew from what my supervisor told
12 me, and I assisted him. I did not --

13 JUDGE SIPPEL: Okay. So are we going to
14 be spending any more time on this?

15 MR. SHOOK: I think we've beaten that
16 horse.

17 MR. DUNCAN: Respectfully, though, Your
18 Honor, just before we move on, as Mr. Helgeson has
19 testified in a number of ways, most of that
20 declaration has nothing to do with the public
21 inspection file, so --

22 JUDGE SIPPEL: Well, what did I just read?

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1 Did I read something I didn't think I understood what
2 I was reading?

3 MR. DUNCAN: No, there's one paragraph
4 that does, and one line in another paragraph. The
5 rest of the declaration refers to the public files --
6 the non-public files. So I, I just -- you had
7 mentioned when you were asking the question that the
8 entire declaration was on the public inspection file.
9 I just wanted to make --

10 JUDGE SIPPEL: I, I stand corrected. I
11 stand corrected. This is a one and a half page
12 document, and that particular paragraph 4 certainly
13 stands out. It is stated very independently. It
14 stands out and it doesn't seem to fudge anything.

15 MR. DUNCAN: Correct, Your Honor.

16 JUDGE SIPPEL: And he did sign it under
17 oath.

18 MR. DUNCAN: Yes, he did sign it.

19 JUDGE SIPPEL: Serious business.

20 MR. DUNCAN: Yes. Okay.

21 JUDGE SIPPEL: Can we move on to something
22 else?

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1 MR. SHOOK: Yes, Your Honor.

2 JUDGE SIPPEL: Thank you.

3 MR. SHOOK: Now, Mr. Helgeson, before Jeff
4 Ramirez became general manager, so we're talking about
5 Ms. Levinson, Mr. Jacob and Mr. Del Solar, had there
6 been ongoing affirmative efforts to update the KALW
7 public inspection file?

8 THE WITNESS: I recall that Mr. -- as I
9 said, I think yesterday -- that Mr. Del Solar asked me
10 to do -- prepare FCC and ownership reports. That was
11 what I first recall about the public file. And so I
12 assumed from that that he was taking care of the
13 public file, and I assumed that subsequent his
14 successors took care of the public file.

15 I don't recall having a -- that's what I
16 recall. And if they -- I assumed that they were
17 taking care of it as their -- in their role as being
18 the general manager of the station.

19 BY MR. SHOOK:

20 Q Yes, and I think we've established that
21 given the location of the public file you would have
22 been aware of somebody going to the public file drawer

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1 in order to put something in there.

2 A If it was being done right when I was
3 there, yes. Again, it was in an open office. I
4 wouldn't -- maybe I necessarily wasn't sitting at my
5 desk, and it wouldn't have, it wouldn't have been
6 brought to my -- I wouldn't have thought anything
7 untoward if the general manager went over to that file
8 cabinet and opened any drawer, since like myself they
9 had access -- they had permission to go in that, any
10 of those file cabinets. So I wouldn't have even paid
11 any special attention which drawer they were going
12 into.

13 Q Well, I was just wondering if you were
14 aware of on a -- every three months the general
15 manager would go to the public file drawer and put
16 something akin to an issues programs list in the
17 public file?

18 A I don't have any specific recollection of
19 that action taking place by any of the general
20 managers.

21 Q I want to direct your attention to EB
22 Exhibit 3, page 21.

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1 A I see it.

2 Q To give you some context in terms of where
3 this document is coming from or how we came to have
4 it, I'm going to read to you from paragraph 8 of Mr.
5 John Covell's testimony, which is EB Exhibit 3,
6 beginning at the bottom of page 2.

7 Paragraph 8 reads, "Sometime in December
8 1997 or early January 1998 I sent a one-page document
9 to station KALW(FM), a copy of which appears as
10 attachment 3 hereto. (The document that I sent did
11 not bear the post-it information appearing at the
12 bottom of the page.) Shortly thereafter, I received
13 an email message from William Helgeson which appears
14 as attachment 4 hereto." That was the document that
15 I had you read.

16 First of all, do you recognize this email
17 or document as something that you sent John Covell?

18 A I don't recall at this time sending it to
19 him, but it certainly looks like it's an email of
20 mine. So I don't -- I may have sent him this email,
21 yes. I believe I did.

22 Q Now, you're thanking him for the list, and

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1 then for keeping our records up to date from now on
2 would you please prepare such a list quarterly from
3 now on? Had Mr. Covell been sending you lists prior
4 to this time of quarterly programming information?

5 A I don't recall him sending them to me.
6 No, I don't.

7 Q Do you recall that any were sent by John
8 Covell to the station before this time?

9 A If they were sent to the station before
10 that time I don't have recollection of it.

11 Q Would the ordinary course of events have
12 brought such a list to your attention?

13 A I don't believe that it would have been
14 brought to my attention unless the GM brought it to my
15 attention. General manager.

16 Q So it would have been typical for the
17 general manager to take a mailing of a quarterly list
18 and simply put it in the file himself and not involve
19 you?

20 A I think the general manager was -- I
21 assumed if there was such a list the general manager
22 was doing it.

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1 Q I want to show you Bureau Exhibit 10.

2 A Okay.

3 Q Do you recognize the handwriting?

4 A Yes, I do recognize the handwriting.

5 Q Whose is it?

6 A It appears to be my handwriting.

7 Q This was a fax cover sheet that you sent
8 to Mr. Sanchez?

9 A This appears to be a fax cover sheet that
10 I sent to Mr. Sanchez, and it looks like it was
11 January 30th of 1998. Dated.

12 Q The fax refers to a list that "Jeff, Ana
13 and I" used yesterday to "clean up KALW's public
14 file". Do you know what list is being referred to in
15 the fax cover sheet?

16 A In preparing for the hearing with my
17 attorneys, I was -- I reviewed this recently, and I've
18 looked at it, and I'm not sure what list it refers to
19 particularly. I would only assume that it was some
20 list of what should or shouldn't be in a public file
21 that we used -- that we had gotten -- the station had
22 gotten from some source.

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1 And I was more like an FYI, this was like
2 an FYI to Ernie what did you think of -- what do you
3 think, as I said down here. I wasn't even sure if
4 this was, this was the list, and so I put in the what
5 do you think.

6 And since -- and it certainly says that
7 Jeff and Ana and I used it, so I'm not sure exactly at
8 what point -- certainly Jeff was the manager and I
9 worked for him -- I'm not sure how he -- who did what
10 on this, and I'm not sure what I meant by -- at this
11 time I can't remember what or why I put the words
12 "clean up" in quotes, either.

13 Q Well, you're stealing all my thunder, I
14 can't answer my, or ask my questions, because you've
15 answered the next three.

16 A Oh, I --

17 Q That's okay. I take it by Jeff you meant
18 Jeffrey Ramirez.

19 A Jeff Ramirez.

20 Q Ana is who?

21 A Ana is Ana Perez.

22 Q Do -- you can't recall right now what you

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1 meant by clean up the public files?

2 A No, I think there was some uncertainty as
3 suppose what should and shouldn't be in the public
4 file. So I think that that's why the list from --
5 whatever list we used, from whatever source -- I think
6 there was a -- that we felt that we needed some list
7 because I certainly didn't know what should and
8 shouldn't be in a public file, so -- and this is what
9 we used. Whatever list that was. I just assumed
10 there was some printed list.

11 Q Do you have any knowledge --

12 A Some printed, some printed list.

13 Q Do you have any knowledge as to where that
14 list might be now?

15 A I'm not sure where it might be. No.

16 Q Do you have any recollection as to how
17 many pages it was?

18 A I don't know. Because this, this fax
19 doesn't say how many pages on this, so that would --
20 so I'm not certain.

21 Q Now, in the course of "clean up" the
22 public file, did you add anything to the public file?

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COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
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(202) 234-4433

www.nealrgross.com